

Mom and Grandma Were Right, If We Don't Stand Up For Our Rights, We Will Lose Them

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By Ken Winston, Nebraska Sierra Club Advocate

There was a hearing in Lancaster County District Court last Friday, September 14, 2012, on the attempt by the Nebraska Attorney General to dismiss the citizens lawsuit to have LB 1161 declared unconstitutional.



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There were some interesting moments, one of which was the Deputy Attorney General making the argument that the only people with standing to challenge the law would be oil pipeline companies. She also argued that Nebraskans along the route should wait until they were actually subject to an eminent domain proceeding before they would be entitled to challenge the law. Of course her boss is the same Attorney General who could not be bothered with investigating threats of eminent domain by TransCanada, the same Attorney General who couldn't find Randy Thompson in the phone book to get back in touch with him after he hand delivered a letter asking him to investigate the legality of these threats.

The hearing continued an on-going theme; if you are a citizen of the State of Nebraska up against a foreign corporation, don't expect the Attorney General to help you.

I couldn't help thinking about my Mom and Grandma during the hearing. They always taught me that Americans had important rights that people in other countries didn't have, and if we didn't stand up for them, we would lose them. Neither my parents nor my grandparents had much in the way of material possessions, but they believed in doing things the right way, and that included fighting to protect our property even when the odds were against them. Although both Mom and Grandma have passed on, I am certain that if our State Legislature had passed a law that gave special rights to a foreign company to take land from Nebraskans while they were alive, they would have been furious.

Fortunately we have citizens like Randy Thompson, Suz Luebbe and Susan Dunavan who are willing to stand up for our rights, people who embody the same values that my Mom and Grandma had. And fortunately Dave Domina is representing the citizens of Nebraska in the effort to uphold our rights. He was masterful in his arguments, both incisive and methodical. When the Attorney General argued that the taxpayers couldn't sue because the State was just fronting the money and would recover it from TransCanada, Domina turned the argument against them by pointing out that this was also unconstitutional since it extended the credit of the State to a private corporation.

Mom and Grandma were right, if we don't stand up for our rights, we will lose them. I know there may be some who think this lawsuit is just about a few landowners. That is wrong. This effort protects fundamental rights to own property, rights to due process of law, basic principles of the constitution. These are legal doctrines and

principles that impact everyone, not just people on the pipeline route. I expect the challenge to LB 1161 will survive this attempt by the Attorney General to stop it and that the matter will be set for a hearing on the actual issues of the case.

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